

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 2/28/2013

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

Mod. 6 to SDA TIF5 Series 2010-A

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Modification No. 6, to the Supplemental Development Agreement TIF5 Series 2010-A to Annexation and Development Agreement between the City of Huntsville and LW Redstone Company, LLC.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Mary C. Cates

Date: 2/27/13

RESOLUTION NO. 13-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Modification No. 6 to Supplemental Development Agreement by and between the City of Huntsville and LW Redstone Company, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 6 to Supplemental Development Agreement TIF5 Series 2010-A between the City of Huntsville and LW Redstone Company, LLC," consisting of three (3) pages and the date of February 28, 2013, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 28th day of February, 2013.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 28th day of February, 2013.

Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA
COUNTY OF MADISON

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**MODIFICATION NO. 6 TO THE
SUPPLEMENTAL DEVELOPMENT AGREEMENT
TIF5 – Series 2010-A TO ANNEXATION
AND DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF HUNTSVILLE AND
LW REDSTONE COMPANY, LLC
AS ADOPTED AND APPROVED BY
RESOLUTION No. 10-581
ON JULY 22, 2010 AND AS PREVIOUSLY
AMENDED BY MODIFICATIONS NO. 1, 2, 3, 4 & 5**

MODIFICATION No. 6

Pursuant to Section 7.3 of the Annexation and Development Agreement dated March 25, 2010, ("Agreement"), between THE CITY OF HUNTSVILLE, ALABAMA, a municipal corporation organized and existing pursuant to the laws of the State of Alabama ("City") and L W REDSTONE COMPANY, LLC, a Delaware limited liability company ("Owner"), City and Owner enter into this Modification No. 6 to the Supplemental Development Agreement TIF5-Series 2010-A which was previously adopted and approved by Resolution No. 12-581 on July 22, 2010, amended by Resolution No. 10-891 on October 28, 2010, Resolution No. 12-647 on July 26, 2012, Resolution No. 12-1012 on November 15, 2012, Resolution No. 13-23 on January 10, 2013, and Resolution No. 13-125 on February 14, 2013, hereby provide more specifically for the obligations of City and Owner.

Modifications to Scope of Work and allocations within the \$10,000,000 Maximum Amount of the prior Supplemental Development Agreement referenced above are as follows:

1. Within Section B. ADD the following: "The amount of \$112,310.00 from Account No. 05-6500-0511-1012 shall be budgeted and funded for the award of a contract to Brasfield & Gorrie, L.L.C. for Project Management Services for Redstone Gateway Package I and Package J, Project No. 65-130SP20."
2. Within Section B. ADD the following: "REDSTONE GATEWAY, PACKAGE I-1 Project 65-12-SP23, for Mass Grading, Fine Grading, Erosion Control, Storm, and Pond Liner, to be awarded to Reed Contracting Services, Inc. The total contract amount to be awarded is \$1,825,598.50 with \$332,098.50 of that amount, from Account No. 05-6500-0811-1013 being budgeted and funded pursuant to this SDA 2010-A and the remainder of the amount of \$1,493,500.00 to be budgeted and funded by SDA 2013-A."
3. Within Section B. ADD the following: "The amount of \$13,800.00, from Account No. 05-6500-0811-1014 is budgeted and funded for the award of Modification No. 5 to the Agreement with LBYD, Inc. – Civil & Structural Engineers to provide additional engineering services during the construction of Redstone Technology Park, Phase I: Infrastructure and Roadway. This contract, originally approved by Resolution No. 10-1025, and as previously amended, was funded in the amount of \$145,500.00 and with this modification the total revised contract amount that has been funded is \$159,300.00."

President of the City Council of the
City of Huntsville, Alabama
Date: _____

4. Within Section B. OWNER IMPROVEMENT, the subsection entitled "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED", the amount of \$501,484.17 allocated and budgeted for undefined engineering and construction costs is hereby decreased by the amount of \$458,208.50 for a revised total of \$ \$43,275.67.

All other terms and conditions of the SDA TIF5-SERIES 2010-A remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

("OWNER")

L W REDSTONE COMPANY, LLC

Dated: _____, 2013

By: _____

Its: _____

STATE OF MARYLAND)
COUNTY OF HOWARD)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that _____, as _____, of LW Redstone Company, LLC, a Delaware corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the ____ day of _____, 2013.

(SEAL)
("CITY")

Notary Public
My Commission Expires: _____

THE CITY OF HUNTSVILLE, ALABAMA,
A municipal corporation

Dated: _____, 2013

By: _____

Tommy Battle
Mayor

ATTEST:

Charles E. Hagood
City Clerk Treasurer

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that _____, as _____, of LW Redstone Company, LLC, a Delaware corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the _____ day of _____, 2013.

(SEAL)

Notary Public
My Commission Expires: _____

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 2/28/2013

Department Contact: Cissy Cates

Phone # 427-5026

Contract or Agreement: Mod. 6 to SDA TIF5 Series 2010-A

Document Name: Modification No. 6 to the SDA LW Redstone, TIF5 Series 2010-A

City Obligation Amount: _____

Total Project Budget: _____

Uncommitted Account Balance: _____

Account Number: _____

Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
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Grant-Funded Agreements

<u>Not Applicable</u>	Grant Name: _____
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Department	Signature	Date
1) Originating	<i>Mary Cates</i>	<i>2/27/13</i>
2) Legal	<i>Mary Cates</i>	<i>2/27/13</i>
3) Finance	<i>TSJ</i>	<i>2/27</i>
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		